

City of Springfield
Special Regular Meeting

MINUTES OF THE SPECIAL REGULAR MEETING
OF THE SPRINGFIELD CITY COUNCIL HELD
MONDAY, JANUARY 10, 2005.

Minutes of the Special Regular Meeting of the Springfield City Council held on Monday, January 10, 2005, at 7 p.m.

ATTENDANCE

Present were Mayor Sid Leiken and Councilors Anne Ballew, Tammy Fitch, Christine Lundberg, Joe Pishioneri, Dave Ralston, John Woodrow.

STAFF: City Manager Mike Kelly, Assistant City Manager Cynthia Pappas, Colin Stephens, Nick Arnis, Gary McKenny, City Attorney Meg Kiernan, Ken Vogeny, Al Girard.

CALL TO ORDER

Mayor Leiken called the meeting of the Springfield City Council to order.

City Attorney Meg Kieran administered the oath of office to incoming councilors Ballew, Lundberg, Pishioneri, and Walston.

Ms. Kieran administered the oath of office to Mayor Leiken.

Mayor Leiken acknowledged that Councilor Ballew was taking the oath of office for the fourth time as a Springfield City Councilor.

ROLL CALL

Roll was called. All councilors were present.

PLEDGE OF ALLEGIANCE

CONSENT CALENDAR

1. Minutes
 - a. November 14, 2004 – Regular Meeting
 - b. November 16, 2004 – Joint Work Session with Planning Commission
 - c. November 16, 2004 – Joint Public Hearing with Planning Commission

- d. November 22, 2004 – Work Session
- e. November 29, 2004 – Work Session
- f. November 29, 2004 – Special Regular Meeting
- g. December 6, 2004 – Work Session
- h. December 6, 2004 – Regular Meeting

2. Resolutions

- a. RESOLUTION NO. 1 – A RESOLUTION AUTHORIZING DEPARTURE FROM SECTIONS 5.02.1.B OF THE CITY ENGINEERING AND PROCEDURES MANUAL REGARDING REQUIREMENTS FOR STREET LIGHTING FOR THE PEACEHEALTH RIVERBEND DEVELOPMENT

Councilor Lundberg pulled Resolution 2(a) from the Consent Calendar.

Councilor Fitch, seconded by Ms. Ballew, moved to approve the Consent Calendar, with the exception of Item 2(a). The motion passed unanimously.

Councilor Lundberg indicated that she pulled Item 2(a) because she wished to have a council work session on the broader topic of citywide street lighting.

Councilor Fitch, seconded by Ms. Ballew, moved to table Item 2(a) pending a council work session. The motion passed unanimously, 6:0.

PUBLIC HEARINGS

1. Remand of Metro Plan and Gateway Refinement Plan Amendments and Council-Initiated Amendments to the Commercial Lands Study and Development Code (PeaceHealth)

Mayor Leiken reviewed the order of the proceedings.

Mayor Leiken opened the public hearing.

Assistant City Attorney Meg Kieran reinforced the fact that to present testimony at this time, a person must have already presented testimony on the record. No new evidence would be accepted at this time.

Ms. Kieran differentiated between evidence and argument, saying that argument meant assertions and analysis regarding the satisfaction or violation of legal standards or policies believed relevant by the proponent to a decision. Argument does not include facts; evidence means facts, documents, and data offered to demonstrate compliance or noncompliance with the standards believed the proponent to be relevant to the decision.

Ms. Kieran asked that the councilors place on the record any conflicts of interest or *ex parte* contacts. A decision could not be reversed on the basis of an *ex parte* contact if such contacts

were disclosed at the first public meeting following the contact at which action will be taken. All parties must be given the right to rebut that communication.

Ms. Kieran emphasized the need for an impartial decision based on the evidence in the record. She briefly reviewed the test for bias.

Councilor Fitch indicated that she had discussed the topic in casual conversation but heard nothing that had not been raised in testimony. Councilor Pishioneri indicated he had been present for a short period during the Planning Commission's deliberations, but nothing he heard would affect his ability to decide the matter impartially. No other councilors declared a conflict of interest or *ex parte* contact.

Mr. Stephens briefly reviewed the four applications at issue and noted the relevant criteria for each application. Application 1 was a remanded Type II amendment to the Eugene-Springfield Metropolitan Area General Plan Diagram; Application 2 was a remanded amendment to the Gateway Refinement Plan text and diagram; Application 3 were amendments to the Springfield Development Code, Article 22, Medical Services zoning district; and Application 4 was amendments to the Springfield Commercial Lands Study. He said that to reach a decision on applications 2, 3, and 4, the City Council shall adopt findings that demonstrate conformance with the Eugene-Springfield Metropolitan Area General Plan, applicable State statutes, and applicable Statewide planning goals and administrative rules.

Mr. Stephens provided the staff report. He discussed the staff recommendations regarding the applications and how they differed from the recommendations of the Planning Commission. He said staff recommended removing the LDAP language from Policy and Implementation Actions 13.0 and 13.3 because it was not subject to the remand and was a separate issue; staff recommended deleting the last two sentences in Condition 3 to avoid a potential legal issue on appeal; and staff recommended the reference to MDR be changed to MS in Policy and Implementation Action 13.6.

Mayor Leiken called for public testimony.

Sue Slaughter Nichols, 885 North 66th Street, representing the Springfield Chamber of Commerce, spoke in support of the applications before the council. She indicated support for the concept of two thriving hospitals in the community. She thought the project had been delayed long enough and should be moved forward. The project had economic significance and would contribute to the construction of several needed transportation projects.

Debi Baker, 340 South 58th Street, Springfield, thought it would be beneficial for a regional hospital to locate in Springfield but was concerned about the loss of property taxes because PeaceHealth was a nonprofit organization. She questioned whether another business would be accommodated in the same manner as PeaceHealth. She thought it was wrong to give considerations to large businesses that would not be given to small businesses as well. Ms. Baker thought the council's first priority should be the best interests of the City of Springfield. She thought any councilors receiving campaign contributions from the hospital should take that under consideration as discussion occurred.

Jan Wilson, 1260 President Street, Eugene, representing the Coalition for Health Choices in Central Eugene (CHOICES), opposed the applications before the council because she believed

that they represented bad development in the wrong place. She averred the development would “empty out” downtown Springfield to accommodate growth on the fringe of the community. She maintained that Springfield did not have the money to maintain the infrastructure it had and could not afford to build new infrastructure. She maintained the development would harm existing businesses by pulling business away from them, and “we can hardly support them as it is.” Ms. Wilson also considered the issue one of “basic respect” for public participation. She “had not seen that lately” in Springfield. She maintained that few people came to council meetings because the council did not listen to people like her. She had participated in the I-5/Beltline stakeholders group and the work the group did on phasing triggers was “thrown out the window.” She said the same was true of the Gateway Refinement Plan and Commercial Lands Study. Ms. Wilson asserted that the City was “just changing the conclusions” and the underlying data was inconsistent with those conclusions. She maintained that changes to existing City plans showed disrespect of citizens and citizen involvement.

Jim Wolderman, 1770 East 11th Avenue, Eugene, representing PeaceHealth, spoke of PeaceHealth’s goals for the RiverBend campus. He noted the organization’s plans to invest in transportation projects and to create jobs. He responded to suggestions that there were better alternative sites. He said the RiverBend site was not PeaceHealth’s first choice, but PeaceHealth believed it to be the best site. Other alternatives were not practical for financial and political reasons. Responding to the suggestion that the development reduced the level of medium-density zoned land on the site, Mr. Wolderman pointed out that PeaceHealth planned to place more units than were originally planned for the area. Responding to discussion of transportation improvements, he noted the large amount PeaceHealth planned to spend on transportation facilities, and the trip cap that was associated with the development request.

Philip Farrington, 677 East 12th Avenue, noted the council’s past approval of the amendments needed to facilitate the development. He said that PeaceHealth had addressed the issues remanded to the City. He asked the council to approve the ordinances and appropriate findings for the remand issues and legislative changes to the Commercial Lands Study and code that clarified the suitability of the PeaceHealth proposal. Mr. Farrington said the Oregon Court of Appeals ruled the proposed hospital was commercial in nature, and did not invalidate the use of the City’s Medical Services (MS) zone, which the code allowed to be applied in the Commercial Commercial (CC) Metro Plan designations. The Land Use Board of Appeals and the court upheld other portions of the council’s prior approval, and those entities clearly understood that 99 acres would be rezoned from Medium-Density Residential (MDR) to MS and CC. All the process being undergone was to change the colors on the plan maps in anticipation of when PeaceHealth submitted its master plan and zone change applications. While the proposal changed the proportion of the acreage split between the MS and Mixed-Use Commercial (MUC) zones that was done to respond to the remand within the confines of the Metro Plan.

Mr. Farrington asked that the words “up to 33 acres” be struck from Gateway Refinement Plan Implementation Action 12.0. While PeaceHealth appreciated the Planning Commission’s intention in requesting the change, he believed it created a limitation that served no true benefit. PeaceHealth had carefully gauged the development potential of the site. Altering the acreage figure for future MUC development did not enhance PeaceHealth’s ability to provide needed health services to the community, nor did it protect the community from undesired development, such as big box development. There were other policies and conditions in the refinement plan that served those purposes.

Jim Hanks, 4765 Village Plaza Loop, Suite 405, Eugene, JRH Engineering, said the Court of Appeals ruling made it clear that transportation facilities must be in place during the planning horizon. He had been working with City and ODOT staffs to identify those facilities that must be in place. PeaceHealth had proposed conditions of approval that provided for phased development of the required transportation facilities to ensure that they were in place when development occurred. He noted the Planning Commission's recommendation included phasing of development, a trip cap to limit development, and improvements to nearby intersections paid for by PeaceHealth. Mr. Hanks said that funding certainty was not needed for the improvements. However, they must be included in the Transportation System Plan. That requirement was met. Mr. Hanks reminded the council that the hearing was a remand hearing and only a narrow set of issues remained to be addressed. Other issues being raised were not relevant. However, the evidence before the council addressed some of the issues raised. Mr. Hanks requested approval of the post-acknowledgement plan amendment with the related conditions related to transportation.

Edward Sullivan, 121 SW Morrison Street, Portland, reiterated Mr. Hanks' statement about the narrow scope of the hearing. He said that the PeaceHealth had addressed the transportation facilities issues throughout the planning period. PeaceHealth had clarified and met the City's Commercial Lands Study policies. PeaceHealth had requested a change in the underlying plan designation to recognize the reality of the commercial use involved as suggested by the court. He asked the council to consider Mr. Farrington's remarks regarding the allocation of commercial uses on the site. Mr. Sullivan observed that the public process allowed for unlimited written testimony and almost unlimited oral testimony. The record was kept open for the submission of additional testimony. Now, the record was closed and the Planning Commission had reached a decision based on that record. He asked the council to grant the applications with the modifications proposed by staff.

Greg Shaver, 1225 Water Street, Springfield Planning Commission, said the recommendations before the council were those of the staff and not of the Planning Commission. He "found it interesting" that the commission developed recommendations only to have staff and the applicant say, "never mind" what the commission said. He said the commission's recommendation related to the commercial acreage was discarded as not relevant to the remand but pointed out that at the request of the staff, the commission had also considered the fill permit issue, which was not within the scope of the remand.

Mr. Shaver called for the development of a major medical zone in Springfield and Eugene to avoid further appeals. He said if the City decided to go forward, he predicated another appeal. He suggested that in the meanwhile, the City embark on such a zone. Mr. Shaver said the commission attempted to craft a recommendation that had what he believed was the least detrimental effect on the area. He said the commission's recommendations would have limited the amount of commercial development that could occur on the site if the hospital were not built. Mr. Shaver recalled that the Gateway Refinement Plan had called for up to three acres of neighborhood commercial zoning in the area. The recommendation before the council called for 99 acres of commercial development, which he characterized as a "huge change." Mr. Shaver asserted that the changes being made to the refinement plan represented a brand new land use decision. He recommended that the council do the "right thing" and charge the commission with the task for developing a medical zone.

Tom Bowerman, 333 McKenzie View, Eugene, urged the council to deny the amendment. He opposed the application as flawed and said the Court of Appeals gave the council the opportunity to do the right thing. Mr. Bowerman argued that the development would be prone to flooding at the location proposed, and he asserted that eventually someone would die because of the PeaceHealth development and the council would be accountable. He disagreed that the hospital would create a community or node in the area involved. Mr. Bowerman noted his submittal of an article representing that hospitals could be built at a smaller scale but said the applicant did not respond about why the hospital had to be so large. He believed that the Gateway Refinement Plan process represented true citizen involvement. The process underway now dispensed with that process and he argued it was inconsistent with State goals and guidelines as well as the Eugene-Springfield Metropolitan Area General Plan.

Al Johnson, 2303 Southeast Grant Street, Portland, representing Robin and John Jacqua, noted his submission of written testimony. He disagreed that the Court of Appeals had accepted the City's proposed use of the Community Commercial designation as the hospital did not fit the scale of uses in that designation. He said the CC and MUC designations were limited scale, limited purpose designations. Mr. Johnson said the Court of Appeals indicated a commercial designation was needed but was not specific about what was needed. That was up to the City. He suggested that the City should consider what its plans said.

Mr. Johnson agreed with Mr. Shaver about the need for a regional hospital designation for hospitals, and said that should be done in cooperation with Lane County and Eugene. He thought that would be good regional planning. He did not think the City would be doing PeaceHealth a favor by avoiding that process. He said if Springfield was serious about doing the project soon, it should take that approach.

Rob Zako, 1280 B East 20th Avenue, Eugene, Transportation Advocate for 1,000 Friends of Oregon. He said that the council could approve the amendments because he did not think it made much difference. He maintained that the council had made its decision long ago, and averred that the Planning Commission had really wanted to reject the proposal but believed the council had already made up its mind and would reject that recommendation, and the commission acted as it did with that belief. He thanked all those he had worked with in working against the application. Mr. Zako said his organization was anxious to test the decision in court, but he regretted the need.

Lauri Segal, 1192 Lawrence Street, Eugene, said the application was not about what was good for the City but rather what worked for PeaceHealth. She agreed with the remarks of Mr. Shaver and Mr. Zako in regard to the intent of the courts and the refinement plan. She criticized development in this area because of its location on the periphery. She did not see any assurance of an end to refinement plan text and policy changes. She opposed economic development on the edge of the urban growth boundary as she preferred Springfield to focus on its downtown.

Mayor Leiken called for a five-minute recess. Following the recess, Mayor Leiken called on the council for questions.

Councilor Pishioneri referred to page 9 of Attachment A, the commission's recommendation, and asked that the word "public" be added to the reference to access to the McKenzie River to ensure it was clear what was being discussed. Mr. Stephens indicated he would make that change. He noted Implementation Action 12.4 on page 7, which indicated any development adjacent to the river or riparian setback shall provide public access to the McKenzie River.

Councilor Fitch asked about the 33-acre limitation proposed by the commission. Mr. Stephens recalled a limitation on the MUC acreage; there had been multiple property owners in the area at the time, which caused some tension about the allocation of commercial land. As written by staff, there was no limitation on the amount of Mixed Use (MU) zoning. The only plan designation that allowed the MUC application was to the MU plan designation, which was about 49 acres before the dedication of right-of-way. From a planning perspective, staff did not support the limitation because of the application process that would follow the adoption of the amendments. The limitation could be imposed at a later time if the council desired.

Councilor Ballew determined from Mr. Stephens that the council was considering a plan designation, not a zone change. Mr. Stephens added that there were refinement plan policies regarding how the zoning was applied. Two districts would be applied, MS and MUC. There was also an amendment to the MS zoning district that would allow it to be applied to the MU plan designation. If, when the master plan was submitted, the council could zone the entire site for MS use.

Responding to a question from Mayor Leiken, Mr. Stephens confirmed that the zoning could be limited in the master planning process. Ms. Kieran added that if the commission's recommendation was adopted, it would limit the City's flexibility. He noted the text in the Exhibit that must be eliminated if the council decided against the commission's recommendation.

Councilor Ballew thought that flexibility for such a large project was very important. She preferred to add restrictions later rather than at this point.

Mayor Leiken called on the council for deliberations.

Councilor Fitch said that some people seem to think that two years is a short period of time. In reality, it was a long process that involved many citizens and a great deal of input. She hoped to see the project happen soon as she thought it would be good for the entire area. She believed the council and staff had learned a lot from the proposal and she appreciated that.

Councilor Ralston thought it important that those who opposed the development knew someone was listening to them. He had reviewed considerable public testimony and he had concluded that, "in a desperate attempt to ensure that PeaceHealth would run into no more obstacles," Springfield's Planning staff had "nearly rewritten" the Gateway Refinement Plan to accommodate PeaceHealth's desires. He interpreted the modifications as "wholesale changes" rather than revisions.

Councilor Ralston opposed the project because rather than amend the application to be consistent with the approval criteria, he asserted the applicant proposed to amend the approval criteria to be consistent with the application.

Councilor Ralston said that the development in question would happen. He said that people enjoyed the quality of life in the community. He believed that it was necessary to manage growth in a way that accommodated growth and quality of life. Councilor Ralston said the City had planning documents for a reason; if there was a desire for change, that should be discussed, but that would involve Goal 1 (citizen involvement) and Goal 2 (land use planning). Councilor Ralston said that the City could have gone through a regional planning effort with little

opposition. The two local jurisdictions would have found suitable location for its hospitals at little cost to its citizens.

Councilor Ralston said he had voted against the proposal twice and indicated his intent to oppose it again. Councilor Ralston maintained that the City had been “bought and sold” by big bucks, and he did not like that.

Councilor Ralston compared existing and proposed refinement plan policies to demonstrate the scope of the changes being proposed by PeaceHealth.

Councilor Ralston argued that Springfield could pick and choose among development proposals. He criticized the process used to address the remand.

Councilor Ralston argued that the remand issues were broader than stated by staff, and encompassed such issues as Goal 10, Housing. He argued that building in the floodplain was not practical and he did not think the issue had been adequately addressed.

Councilor Ralston said the proposal was not nodal in size or scope and did not satisfy the intent of MU zoning as it was only limited mixed use. He asked who would pay the \$15 million for the Gateway interchanges. He did not think Springfield would pay for it.

Councilor Ralston asserted that “good planning” did not move a regional facility to the urban edge. Lack of good planning could have unintended consequences. He said “the bottom line” was that PeaceHealth purchased land designated for residential use for a commercial use. He said the council could approve the amendments, but he did not think it should.

Councilor Lundberg said perhaps if the council could start the process over again, it would probably do it differently. Some might think it crazy that the two local hospitals were changing locations. However, that was not the criteria she would consider.

Councilor Lundberg shared Mr. Shaver’s concern that the staff had overridden the recommendations of the commission. She thought the commission should have the final say in what came to the council.

Councilor Lundberg questioned whether a regional hospital zone designation might not be useful.

Councilor Lundberg said that she did not find the proposal to be inconsistent with the community’s ultimate goals. She did not think it was a bad decision for the community, and indicated her support.

Councilor Fitch again indicated her support for the proposal. She said the City had not been bought or sold. She suggested differing opinions were healthy if kept focused on the facts. Councilor Fitch said sometimes the council agreed with the Planning Commission and sometimes it disagreed. In this case she concurred with part, but not all, of the commission’s recommendations. She did not think the council’s actions could always be predicated ahead of time, and noted in this case the council was reaffirming a past decision.

Mayor Leiken said testimony before the council had suggested that Springfield’s downtown had begun to empty only in the last few years, but in reality Springfield’s downtown core began to

empty out 30 years ago. The two cities' downtown cores had become empty and there were many "for lease" signs out in both Eugene and Springfield. That was unfortunate.

Mayor Leiken thought it ironic that the City had an annexation agreement that required a nonprofit entity to provide about \$17 million in infrastructure improvements, and a for-profit hospital announced that it would not only qualify for three years' property tax abatement, but the governor had \$1 million to entice the company to come to the community. However, he did not object to the governor's action.

Mayor Leiken liked the idea of examining a major medical zone and suggested it could apply to applications in the future. If the decision came back on appeal, he suggested it was prudent for staff to consider that as a work plan item.

Mayor Leiken said he had been a business owner in Springfield for more than a decade and thought the City worked well with small businesses. He did not think Springfield had been bought and sold and said if Eugene had done a good job in dealing with the needs of PeaceHealth, no one would need to be here. He said that Springfield bent over backwards for small businesses as well.

Mayor Leiken believed the project would benefit both Springfield and the region. He wished something could have happened in the Glenwood area, but it would not at this point in time. He said in the case of a tie, he would vote in support of the applications.

Councilor Fitch, seconded by Councilor Ballew, moved to approve the proposed amendments to the Metro Plan Diagram with the changes to Condition 3 as recommended by the staff, based on evidence in the record that the proposed plan diagram amendment was found to be consistent with the criteria of approval at Section 7.070(3)(a)(b) of the Springfield Development Code. The vote on the motion was 5:1; Councilor Ralston voting no.

Councilor Fitch, seconded by Councilor Ballew, moved to approve the proposal to amend the Gateway Refinement Plan text and the diagram with the staff recommendations, changes to Condition 3, and Implementing Action 13.6, and with the removal of the LDAP text, and to additionally change 12.4(g) to add the word "public" before "access to the McKenzie River," and to change 12.0 and remove the words "for up to 33 acres." The motion was based on the evidence in the record that the proposed refinement plan text and diagram amendments are found to be consistent with the criteria of approval at Section 8.030(1)(2)(3) of the Springfield Development Code. The vote on the motion was 5:1; Councilor Ralston voting no.

Councilor Fitch, seconded by Councilor Ballew, moved approval of the proposal to amend the Springfield Development Code, Article 22 text, based on the evidence in the record that the proposed development code amendment is found to be consistent

with the criteria of approval at Section 8.030(1)(2)(3) of the Springfield Development Code. The motion passed, 5:1; Councilor Ralston voting no.

Councilor Fitch, seconded by Councilor Ballew, moved to approve the proposal to the amendment to the Springfield Commercial Land Study, based on the evidence in the record that the proposed Commercial Lands Study amendment was found to be consistent with the criteria of approval at Section 8.030(1)(2)(3) of the Springfield Development Code. The motion passed, 5:1; Councilor Ralston voting no.

Ms. Kieran asked the council to adopt the findings for the ordinances themselves, and pointed out a scrivener's error in Attachment 7 of the packet.

Councilor Fitch, seconded by Councilor Ballew, moved to adopt the ordinance findings and correct the scrivener's error in the findings. The motion passed, 5:1; Councilor Ralston voting no.

Councilor Ballew expressed her appreciation to the Planning Commission for all the work it did.

The meeting adjourned at 8:40 p.m.

Minutes Recorder – Kim Young

Sidney W. Leiken
Mayor

Attest:

Amy Sowa
City Recorder